



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard □ Baltimore MD 21230

410-537-3000 □ 1-800-633-6101

Robert M. Summers, Ph.D.
Deputy Secretary

Martin O'Malley
Governor

Anthony G. Brown
Lieutenant Governor

May 7, 2012

Re: Notice of Permit Decision
Nontidal Wetlands and Waterways Permit Application
Tracking Number **11-NT-0366/201161493**

Dear Property Owner, Public Official, or Interested Person:

After examination and consideration of the documents received and evidence in the application file and record for the **Washington Suburban Sanitary Commission (WSSC) to conduct extensive rehabilitation to its sewer infrastructure in Montgomery and Prince George's Counties. This project is necessary to comply with a Consent Decree that the WSSC entered into with the United States Environmental Protection Agency, the Maryland Department of Environment and citizen groups.** The Water Management Administration has determined that the application meets the statutory and regulatory criteria necessary for issuance of a Wetlands and Waterway Permit. Copies of the permit and the Summary of the Basis for Decision are enclosed with this permit decision.

This is a final agency determination; there is no further opportunity for administrative review. Any person with standing, who is either the applicant or who participated in the public participation process through the submission or written or oral comments may petition for judicial review in the Circuit Court in the County where the permitted activity is to occur. The petition for judicial review must be filed within 30 days of the publication of the permit decision. Please see the attached Fact Sheet for additional information about the judicial review process.

If you have any questions or need any additional information, please do not hesitate to contact me at 410-537-3766.

Sincerely,

Amanda L. Sigillito, Chief
Nontidal Wetlands and Waterways Division

/AS

Enclosures

FACT SHEET NEW JUDICIAL REVIEW PROCESS

Legislation passed by the 2009 General Assembly changes procedures for certain permits issued by the Department, including wetlands and waterways permits. The new judicial review procedures take effect on January 1, 2010 and will apply to final permit decisions issued on and after January 1, 2010.

Under pre-existing procedures, permit applicants and third parties with standing under Maryland law could challenge the issuance of a permit or the conditions of a permit through a request for a “contested case” adjudicatory hearing conducted by the Office of Administrative Hearings. Effective January 1, 2010, the “contested case” process no longer applies to final decisions on applications for these permits. Rather, permits can be challenged through a request for direct judicial review in the Circuit Court for the county where the activity authorized by the permit will occur. Applicants, and persons who meet standing requirements under federal law and who participated in a public comment process by submitting written or oral comments (where an opportunity for public comment was provided), may seek judicial review. Judicial review will be based on the administrative record for the permit compiled by the Department and limited to issues raised in the public comment process (unless no public comment process was provided, in which case the review will be limited to issues that are germane to the permit).

Who Has Standing?

Anyone who meets the threshold standing requirements under federal law and is either the applicant or someone who participated in the public participation process through the submission of written or oral comments, as provided in Environment Article § 5-204, Annotated Code of Maryland. The three traditional criteria for establishing standing under federal law are injury, causation, and redressability, although how each criterion is applied is highly fact-specific and varies from case to case. Further, an association has standing under federal law to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

What is the Procedure for Seeking Judicial Review?

Petitions for judicial review of a final determination or permit decision subject to judicial review must be filed in accordance with § 1-605 of the Environment Article no later than 30 days following publication by the Department of a notice of final determination or final permit decision and must be filed in the circuit court of the county where the permit application states that the proposed activity will occur. Petitions for judicial review must conform to the applicable Maryland Rules of Civil Procedure.

To review the legislation follow the link below:

http://mlis.state.md.us/2009rs/chapters_noln/Ch_650_sb1065T.pdf

For a complete list of permits that these procedures apply to follow the link below:

http://www.mde.state.md.us/ResearchCenter/laws_regs/jrproc.asp